

DEPARTMENT OF SOCIAL SERVICES

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June 30, 1982

ALL-COUNTY LETTER NO. 82-62

TO: ALL-COUNTY WELFARE DIRECTORS  
ALL LICENSED ADOPTION AGENCIES  
ALL DISTRICT ADOPTIONS OFFICES

SUBJECT: ASSEMBLY BILL 2315


REFERENCE:

As stated in ACIN I-73-82 dated June 21, 1982, this is to advise you that Assembly Bill 2315, an urgency measure was signed by the Governor and became effective June 29, 1982. A copy of the statute is attached.

Due to passage of this law, severely emotionally disturbed children placed voluntarily who reach their six month limit on AFDC-FC funding on or after June 30, 1982, and who meet the criteria set forth in ACIN I-73-82 are not to be discontinued from AFDC-FC funding. The requirement that these children not be discontinued after they have reached the six month limit applicable to other children in voluntary placement is clearly set forth in this statute. Compliance with this requirement is mandatory upon the counties in those counties which utilize voluntary placements.

Regulations are being drafted and processed on an emergency basis and will be forwarded to you as quickly as possible.

If you have questions regarding AB 2315, please contact your AFDC Management Counsultant at (916) 445-4458.

  
KYLE S. MCKINSEY  
Deputy Director  
Welfare Program Operations

Attachment

CWDA

CHAPTER 325

An act to amend, repeal, and add Sections 11401.1 and 11404 to, and to add and repeal Sections 11401.3, 11404.2, and 16508.2 of, the Welfare and Institutions Code, relating to aid to families with dependent children, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 29, 1982. Filed with  
Secretary of State June 29, 1982.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2315, Lockyer. Aid to Families with Dependent Children—Foster Care (AFDC-FC).

Existing law provides that Aid to Families with Dependent Children—Foster Care (AFDC-FC) payments made on behalf of eligible children placed in foster care, shall be limited to a period of 6 months for those children voluntarily placed in foster care after January 1, 1981.

This bill would exempt from this 6-month limitation, severely emotionally disturbed children placed voluntarily in foster care who meet specified criteria.

The bill would provide for administrative reviews, as defined, to be held at 6-month intervals. The functions of the administrative review would include providing for termination of the voluntary placement unless a finding is made that a substantial risk to the physical or well-being of the child would be created by terminating the placement.

The bill would also require that written assessments and service plans which are required to be developed by the responsible agency for children receiving AFDC-FC payments, shall, in the case of emotionally disturbed children placed voluntarily in foster care, be encouraged to be developed in coordination with a county mental health department or a mental health professional.

Existing law provides for child welfare services to be provided by counties to children, including children placed in foster care.

This bill would provide that severely emotionally disturbed children placed in foster care shall not be limited to receiving of child welfare services only for specified time periods.

The bill would provide that the foregoing provisions would be repealed on January 1, 1984.

The bill would provide that the State Department of Mental Health, subject to the approval of the State Department of Social Services, and in consultation with the California Conference of Local Mental Health Directors, the County Welfare Directors Association, and the California Association of Services for Children, would be

required to submit a final report to the Legislature no later than January 1, 1983, with an interim report to be submitted by October 1, 1982, concerning existing and potential social services for emotionally disturbed children.

Article XIII B of the California Constitution and Sections 2231 and 2234 of the Revenue and Taxation Code require the state to reimburse local agencies and school districts for certain costs mandated by the state. Other provisions require the Department of Finance to review statutes disclaiming these costs and provide, in certain cases, for making claims to the State Board of Control for reimbursement.

However, this bill would provide that no appropriation is made and no reimbursement is required by this act for a specified reason.

This bill would take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds that county mental health departments make referrals to county welfare departments for out-of-home placement for children who are severely emotionally disturbed, with such placements funded by the AFDC-FC program, and that the mental health departments cooperate with county welfare departments in planning for the treatment needs of such children.

It is the Legislature's intent that such cooperation between the county welfare departments and the county mental health departments continue and not be a new state mandate so long as Sections 2 and 5 of this act remain in effect.

SEC. 2. Section 11401.1 of the Welfare and Institutions Code is amended to read:

11401.1. (a) Otherwise eligible children placed voluntarily prior to January 1, 1981, may remain eligible for AFDC-FC payments.

(b) Except as provided in subdivision (c), beginning on January 1, 1982, AFDC-FC payments for children placed voluntarily on or after January 1, 1981, shall be limited to a period of up to six months under conditions specified by departmental regulations.

(c) The six-month limit shall not apply to payments for a child when all of the following criteria are met:

(1) The county welfare department has received a mental health assessment by a qualified mental health professional which:

(A) Documents that all appropriate efforts were made to treat the child while living in his or her home in an attempt to keep the family together prior to the child being voluntarily placed.

(B) Indicates the need for placement in a 24-hour setting.

(2) The child requires placement due to severe emotional disturbance and who receives appropriate treatment for the emotional disturbance while in placement.

(3) The child is not determined to be abused, neglected, or

exploited pursuant to Section 300.

(4) The child's parent or guardian cooperates with:

(A) The county welfare department in the provision of services specified in Section 11404.2.

(B) The county mental health department or a qualified mental health professional in arranging for the child's treatment.

(C) The treatment program of the facility in which the child is placed.

(d) At six-month intervals, an administrative review shall be required in accordance with Section 11401.3 for every child in placement pursuant to subdivision (c).

This section shall remain in effect only until January 1, 1984, and as of such date is repealed, unless a later enacted statute deletes or extends that date.

SEC. 3. Section 11401.1 is added to the Welfare and Institutions Code, to read:

11401.1. (a) Otherwise eligible children placed voluntarily prior to January 1, 1981, may remain eligible for AFDC-FC payments.

(b) Beginning on January 1, 1982, AFDC-FC payments for children placed voluntarily on or after January 1, 1981, shall be limited to a period of up to six months under conditions specified by departmental regulations.

This section shall become operative on January 1, 1984.

SEC. 4. Section 11401.3 is added to the Welfare and Institutions Code, to read:

11401.3. (a) Beginning July 1, 1982, every child in voluntary placement pursuant to subdivision (c) of Section 11401.1, shall receive a periodic administrative review no less frequently than once every six months in order to determine the continuing necessity for and appropriateness of the child's placement, the extent of compliance with the case plan, and the adequacy of the services provided to the child.

The term "administrative review" means a review open to the participation of the parents or guardians of a child in foster care, conducted by a panel of appropriate persons, at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parent or guardian who is the subject of the review. The parent or guardian shall receive reasonable notification prior to the hearing.

(b) The department shall develop and implement regulations establishing processes, procedures, and standards for the conduct of administrative reviews, which assure due process protections for children and their parents or guardians.

(c) At the review hearing, the administrative review panel shall terminate the voluntary placement unless the administrative review panel finds that the return of the child to his or her parent or guardian would create a substantial risk of detriment to the physical or emotional well-being of the child. The county welfare department

and the county mental health department or a qualified mental health professional shall have the burden of establishing this detriment. In making its determination, the administrative review panel shall do all of the following:

(1) Consider the reports of the county welfare department and the county mental health department or a qualified mental health professional.

(2) Consider the treatment needs of the child and whether the child is receiving treatment to address the needs in the child's current placement.

(3) Consider whether the parent or guardian has demonstrated continued concern for the well-being of the child.

(4) Make appropriate findings. These findings may include any of the following:

(A) Continuation of voluntary placement in the existing setting.

(B) Continuation of voluntary placement in a setting more appropriate to the child's needs.

(C) Termination of the voluntary placement.

(D) A recommendation that proceedings be instituted to declare the child a dependent of the court under Section 300.

(d) If the administrative review panel recommends termination of the child's voluntary placement, the child shall not be eligible for AFDC-FC payments pursuant to subdivision (c) of Section 11401.1.

This section shall only remain in effect until January 1, 1984, and as of that date is repealed, unless a later enacted statute chaptered prior to that date extends or deletes that date.

SEC. 5. Section 11404 of the Welfare and Institutions Code is amended to read:

11404. (a) Except as provided in Section 11405, a child is not eligible for AFDC-FC unless responsibility for placement and care of the child is with the county welfare department, the county probation department which has an agreement with the county welfare department, or a licensed public adoption agency, licensed private adoption agency or the department.

(b) In order for the child to be eligible for AFDC-FC, the agency with responsibility for the child's placement and care must:

(1) Develop a written assessment of the reasons necessitating the child's removal from his or her home and the treatment needs of the child during foster care. This assessment shall be updated no less frequently than once every six months; and

(2) Develop a service plan which specifies how the problems identified in the assessment are to be addressed.

This section shall remain in effect only until January 1, 1984, and as of such date is repealed, unless a later enacted statute deletes or extends that date.

SEC. 6. Section 11404 is added to the Welfare and Institutions Code, to read:

11404. (a) Except as provided in Section 11405, a child is not

eligible for AFDC-FC unless responsibility for placement and care of the child is with the county welfare department, the county probation department which has an agreement with the county welfare department, or a licensed public adoption agency, licensed private adoption agency or the department.

(b) In order for the child to be eligible for AFDC-FC, the agency with responsibility for the child's placement and care must:

(1) Develop a written assessment of the reasons necessitating the child's removal from his or her home and the treatment needs of the child during foster care. This assessment shall be updated no less frequently than once every six months.

(2) Develop a service plan which specifies how the problems identified in the assessment are to be addressed.

(c) Notwithstanding subdivision (a), AFDC-FC payments shall also be made on behalf of a child for whom the responsibility for care, custody, and control has been designated to an individual pursuant to subdivision (1) (a) of Section 362, or subdivision (a) of Section 362.5, or subdivision (1) (a) of Section 727, or Section 730 (as it refers to subdivision (1) (a) of Section 727), or Section 731 (as it refers to subdivision (1) (a) of Section 727), provided that the county welfare or county probation department is providing to the child the services specified in subdivision (b) of this section. Such payments shall not be continued after June 30, 1982.

This section shall become operative on January 1, 1984.

SEC. 7. Section 11404.2 is added to the Welfare and Institutions Code, to read:

11404.2. In the case of a child who has been found by a qualified mental health professional to be severely emotionally disturbed and is in placement pursuant to subdivision (c) of Section 11401.1, the county welfare department shall be responsible for developing and shall encourage the county mental health department or a qualified mental health professional to assist in developing the written assessment and the service plan, as well as all updates to the written assessment or the service plan, which are required pursuant to subdivision (b) of Section 11404. If the county mental health department or the qualified mental health professional continues to recommend out-of-home placement for the child, then the county mental health department or a qualified mental health professional shall cooperate with the responsible agency in development of the written assessment and the service plan, as well as all updates to the written assessment and the service plan, and in arranging for the treatment services identified in the service plan.

Notwithstanding subdivision (a) of Section 11404, AFDC-FC payments shall also be made on behalf of a child for whom the responsibility for care, custody, and control has been designated to an individual pursuant to subdivision (1) (a) of Section 362, or subdivision (a) of Section 362.5, or subdivision (1) (a) of Section 727, or Section 730 (as it refers to subdivision (1) (a) of Section 727), or

Section 731 (as it refers to subdivision (1)(a) of Section 727), provided that the county welfare or county probation department is providing to the child the services specified in subdivision (b) of Section 11404. Such payments shall not be continued after June 30, 1982.

This section shall remain in effect only until January 1, 1984, and as of such date is repealed, unless a later enacted statute deletes or extends that date.

SEC. 8. Section 16508.2 is added to the Welfare and Institutions Code, to read:

16508.2. Every child in voluntary placement pursuant to subdivision (c) of Section 11401.1 shall not be subject to the six-month limit on child welfare services applicable to voluntary placements and shall receive the equivalent level and duration of permanent placement services as provided to children who, because of abuse, neglect, or exploitation, cannot safely remain at home and who are unlikely to ever return home.

This section shall only remain in effect until January 1, 1984, and as of that date is repealed unless a later enacted statute chaptered prior to that date extends or deletes that date.

SEC. 9. The provisions of this act shall be effective only to the extent that funds are available in the Budget Act for transfer from the Department of Mental Health to the Department of Social Services for purposes of providing care for these voluntarily placed emotionally disturbed children.

SEC. 9.5. On the effective date of this act the Department of Finance shall review the amounts of funding necessary to implement the provisions of this act and shall direct the Controller to transfer such amounts from the appropriation for Department of Mental Health, Local Assistance, to: (1) category (a) of Item 5180-101-001 for the state share of foster care payments, and (2) Item 5180-141-001 for the state share of county administrative costs to provide foster care payments. The difference between what is appropriated for out-of-home placement for mentally disabled children in the Department of Mental Health Local Assistance item and the amounts specified for transfer in (1) and (2) above shall be transferred by the Controller to the unappropriated surplus of the General Fund.

SEC. 10. It is the intent of the Legislature to provide comprehensive care and services for severely emotionally disturbed children whose needs are currently not met by any existing system. For that purpose, the State Department of Mental Health shall prepare a report subject to the approval of the State Department of Social Services. An interim progress report shall be filed with the Joint Legislative Budget Committee October 1, 1982, and a final report not later than January 1, 1983. The reports shall contain, but shall not be limited to, the following:

(a) An evaluation of existing delivery of services to severely

emotionally disturbed children requiring residential and day treatment services, and the number of children in these programs.

(b) Development of a plan for a single, comprehensive funding and service system for severely emotionally disturbed children requiring residential and day treatment services.

(c) Recommendations for amending, repealing, or expanding the appropriate statutes concerning care and services to severely emotionally disturbed children.

The report shall be prepared in consultation with the California Conference of Local Mental Health Directors, the County Welfare Directors Association, and appropriate provider groups, such as the California Association of Services for Children.

SEC. 11. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act implements a federal law or regulation and involves only "costs mandated by the federal government," as defined by Section 2206 of the Revenue and Taxation Code.

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To ensure that children who are emotionally disturbed and are currently in voluntary placement can remain in that type of placement after July 1, 1982, it is necessary that this act go into immediate effect.